

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

October 22, 2009

DIVISION ONE

B206859 People
 v.
 Stone

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION TWO

Court convened at 9:00 a.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J. and Joyce Hatter, Deputy Clerk.

In open court Presiding Justice Boren welcomes from The German Consulate General's Office, Mr. Ulrich Fischer and his interns Mareike Feiler, Sophie Schaefer and Eric Bamber. From The Austrian Consulate General's Office, intern Ms. Felicitas Zacherl and from The French Consulate General's office Mr. Rodolphe LeDref.

Each of the following:

B215069 In re: E.G.
B212394 People v. Coto
B205609 People v. Bingley
B215092 People v. McDowell
B210235 People v. Seclan

Argument waived, cause submitted.

DIVISION TWO (continued)

B212349 Shackelford
 v.
 Diaz

Merits:

Argued by Matthew C. Long for appellant and Peter Beck, for respondent, waived oral argument. Cause submitted.

B213960 People
 v.
 Gomez

Merits:

Argued by Susan K. Dozier, Deputy District Attorney for appellant and by Robert J. Hill, Deputy County Public Defender for respondent. Cause submitted.

B208050 Shoemaker, Jr.
 v.
 Bronstein

Merits:

Argued by Tory S. Erickson for appellant and by Michael W. Feenberg for respondent. Cause submitted.

B211603 Michael Mellman
 v.
 Kim Mellman

Merits:

Argued by Dennis M. Elber for appellant and by Jeffrey W. Doeringer for respondent. Cause submitted.

DIVISION TWO (continued)

B211594 County of Kern
v.
California Department of Health Services

Merits:
Argued by Tami S. Smason for appellant and by Gregory M. Cribbs,
Deputy Attorney General for respondent. Cause submitted.

B204876 Ultimex Cement Mfg. Corp., et al.
v.
CTS Cement Mfg. Corp., et al.

Merits:
Argued by Saied Kashani for appellants and by Ward Benshoof for
respondents. Cause submitted.

B196597 Hesameddin Enayati, et al.
v.
Alaeddin Enayati, et al.

Merits:
Argued by Edward A. Hoffman for appellants, by Saul Reiss for respondent
Alaeddin Enayati and by Ehsan Afaghi for respondents Behrooz Faridian, et
al. Cause submitted.

Court recessed.

Court reconvened at 1:00 p.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J. and Joyce Hatter, Deputy Clerk.

DIVISION TWO (continued)

Each of the following:

B206915 People v. Hurst
B211292 People v. Percy
B208889 People v. Cordon
B211011 People v. Collins
B216663 In re: B.C.
B210246 People v. Hernandez

Argument waived, cause submitted.

B212073 Kojababian
 v.
 Treyzon, et al.

Merits:
Argued by Varoujan Nalbandian for appellant and by Boris Treyzon for respondents. Cause submitted.

B208174 Aivazian, et al.
 v.
 Thompson,et al.

Merits:
Argued by Derek L. Tabone for appellants and by Mitchell J. Freedman for respondents. Cause submitted.

B216591 Union Carbide Corporation
 v.
 Superior Court, Los Angeles County
 (Helen Washington, r.p.i.)

Merits:
Argued by Margaret I. Johnson for petitioner and by Charles S. Siegel for real party in interest. Cause submitted.

Court Adjourned.

DIVISION THREE

B200006 Merrill, et al.
v.
Leslie Controls, Inc., et al.

Filed order granting petition for rehearing. The matter will be resubmitted as of the filing of defendant's answer.

DIVISION FOUR

B212120 People (Not for Publication)
v.
Pinckney

We direct the clerk of the superior court to amend the abstract of judgment to reflect that defendant is awarded 440 days of conduct credit and the parole revocation fine is stricken and to forward a copy of the amended abstract to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed.

Suzukawa, J.

We concur: Willhite, Acting P.J.
Manella, J.

B208921 People (Not for Publication)
v.
Bishop

The judgment is affirmed.

Manella, J.

We concur: Willhite, Acting P.J.
Suzukawa, J.

DIVISION FOUR (continued)

B211284 Los Angeles County, D.C.F.S. (Not for Publication)
v.
M.R.

The orders of the juvenile court are affirmed.

Suzukawa, J.

We concur: Willhite, Acting P.J.
Manella, J.

B210878 People (Not for Publication)
v.
Sheppard

The judgment of conviction is affirmed. The case is remanded to the trial court for resentencing.

Manella, J.

We concur: Willhite, Acting P.J.
Suzukawa, J.

B212886 The Trading Post Loan Co., Inc., et al. (Not for Publication)
v.
Kiss, et al.

The orders and judgment are reversed solely with respect to the denial of a fee award under section 1717 and the matter is remanded for further proceedings in accordance with this opinion. Appellants are awarded their costs on appeal.

Manella, J.

We concur: Willhite, Acting P.J.
Suzukawa, J.

DIVISION FOUR (continued)

B211821 People (Certified for Partial Publication)
v.
Vargas

The conviction on count 6 -- sexual penetration of Maria R. by a foreign object -- is reversed, and the eight year sentence imposed on that count is ordered stricken. The clerk of the superior court is ordered to prepare an amended abstract of judgment so reflecting, and to transmit the amended abstract to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

[illegible]

The judgment is affirmed.

Epstein, P.J.

We concur: Willhite, J.
Suzukawa, J.

B209877 Lazcano-Gutierrez (Not for Publication)
v.
Berke, et al.

The order of dismissal is affirmed. The parties shall bear their own costs on appeal.

Manella, J.

We concur: Epstein, P.J.
Suzukawa, J.

DIVISION FOUR (continued)

[illegible]

The judgment is affirmed.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

B202129 American Contractors Indemnity Company (Not for Publication)
v.
Sirkin

The judgment is reversed. Appellant is to have her costs on appeal.

Epstein, P.J.

We concur: Willhite, J.
Manella, J.

B214700 People (Not for Publication)
v.
H.M.

The order is affirmed.

Suzukawa, J.

We concur: Willhite, Acting P.J.
Manella, J.

DIVISION FOUR (continued)

B213447 People (Not for Publication)
v.
Lopez

The judgment is affirmed.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

DIVISION FIVE

B216125 Los Angeles County, D.C.F.S. (Not for Publication)
v.
M.A.

The order terminating mother's parental rights is conditionally reversed. The matter is remanded to the juvenile court for the limited purpose of providing notice to the BIA and Indian tribes concerning A.W.'s potential status as an Indian child. If the BIA or any tribe that A.W. is or may be eligible for Indian tribal membership, or if any Indian tribe to which A.W. is or may be eligible for membership affirmative elects not to intervene in this matter, then the juvenile court shall reinstate the order terminating mother's parental rights as to A.W., and may proceed accordingly.

Mosk, J.

We concur: Turner, P.J.
 Armstrong, J.

B210740 People
v.
Osmin Erazo

Filed order denying petition for rehearing.

DIVISION SIX

B215461 People (Not for Publication)
v.
Canales

Our review indicates that the abstract of judgment does not reflect Canales's conviction of one count of possession of a firearm by a felon (count 6) and it mistakenly describes count 3 as "street terrorism" instead of transportation of a controlled substance. The trial court shall correct and amend the abstract of judgment and forward it to the Department of Corrections. The judgment is otherwise affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

B210339 People
v.
Madrid

Filed order denying petition for rehearing.

DIVISION SEVEN

B206794 People (Not for Publication)
v.
Ellis, et al.

As to Ellis, the judgment is reversed and the matter is remanded for the limited purpose of holding a hearing on his posttrial *Marsden* motion. If he makes a prima facie showing of ineffective assistance of counsel, the trial court is directed to appoint new counsel for the purpose of bringing a new trial motion. If he fails to make a prima facie showing, the trial court is directed to reinstate the judgment with the following modification: It is to delete the 10-year consecutive term enhancements imposed on counts 1 and 3 pursuant to Penal Code section 186.22, subdivision (b)(1)(C), and to provide 15-year minimum parole eligibility dates on those counts pursuant to subdivision (b)(5) of Penal Code section 186.22.

DIVISION SEVEN (continued)

B206794 (continued)

As to Call, the judgment is modified to delete the 10-year consecutive term enhancement imposed pursuant to Penal Code section 186.22, subdivision (b)(1)(C), on count 3 and to provide a 15-year minimum parole eligibility date pursuant to subdivision (b)(5) of that section on that count. As so modified, the judgment is affirmed. The clerk of the trial court is directed to prepare a modified abstract of judgment and to forward a copy to the Department of Corrections and Rehabilitation.

Jackson, J.

We concur: Perluss, P.J.
Woods, J.

DIVISION EIGHT

B215759 People (Not for Publication)
v.
Jose Demetrio Moreno

The judgment is affirmed.

Bigelow, J.

We concur: Rubin, Acting P.J.
Flier, J.